

# A Circumstantial Case

The Astorian's Novel in Four Chapters

Continued from Wednesday's Astorian.

## CHAPTER III.

The day of the trial at length arrived, and by that time I had argued myself into a belief in my friend's triumph scarcely second to his own. Moreover—I may own it now—I felt that his acquittal would savor of a personal triumph for myself. One of the most skillful criminal practitioners at the bar was pitted against me, and if I won? Ah, well, now I am approaching the sunset of life, when the buff changes to crimson, the purple to amethyst and the violet to ruby, yet even the withered leaf of autumn was once green and full of sap, and I then cherished a confidence in my own success which has been rudely shaken by the multimodal vicissitudes of years.

The district attorney opened with the usual disavowal of malice on the part either of the state or of himself, and the customary protestation that he was actuated only by a stern, unflinching sense of public duty. (My experience of later years has led me to question whether the state prosecutor does not sit times out of ten feel as much personal pride in securing a conviction as does the attorney for the criminal in obtaining his client's release.) When he outlined with the utmost perspicacity what he proposed to prove and after a seemingly sincere appeal to the jury to put aside "bitterness, malice and all uncharitableness" he summoned his first witness, Mr. Pope.

The latter described his relation to the library, the building itself and its contents, the counsel for the state dwelling particularly upon its extremely valuable collection of rare coins. Being shown a gold coin and asked if he could identify it, the witness unhesitatingly pronounced it a "noble" of the reign of the third Edward. In response to further questioning, he said that it was the property of the library (as to that he could not be mistaken) and narrated all the circumstances connected with its supposed loss and alleged discovery as far as they had fallen under his personal observation. I made him repeat his story in detail on cross examination, but he varied not a hair's breadth. Asked as to his previously formed estimate of the prisoner's character, he replied freely and without reserve—and with an evident emotion which was apparently not without influence upon some of the jurymen—that he had always heard him mentioned with respect and that prior to the date in question he had himself held him in the highest esteem.

Then Golsen, the assistant, detailed the loaning of the tray of coins to the accused, the latter's extended examination of the same in a secluded alcove, his sudden discovery of the loss of one of them, the unsuccessful search for the same and the circumstances attending the arrest. On cross examination his answers were frank, and he, too, appeared rather to lean to the side of the defense. Yes, he had known Mr. Scarborough (although only as an habitué of the library and by name) for several years. He had always regarded the prisoner as a gentleman. He (Scarborough) had repeatedly examined trays of valuable coins in the same alcove and none had been missed before that date. When he had been asked to aid in looking for the missing gold piece he had felt no suspicion. He had summoned the policeman because everything looked so strange, and, besides, it was his duty to do so under the rules. Had he been in the alcove in question within the next few days? No; he had been transferred to the other side of the building and had been employed there until a week ago, when he had resigned his position partly on account of a weak back and partly to assist his wife in the management of a boarding house formerly kept by her mother, who had recently died.

The next witness called by the district attorney was a small eyed, beetle browsed, dirt begrimed man, who said his name was Raphael Swzoni. He was employed as a sweeper, cleaner and sort of general utility man in the library. On the second day after the disappearance of the gold piece he had swept the alcove as a matter of ordinary routine work. The state's representative produced from his pocket a small packet, which he carefully opened and laid before the witness. Asked if he could say what it contained, the beetle browsed man replied that he recognized the contents as being particles of yellow metal which he had found on taking up a breadth of the matting in the alcove in question to be shaken. Of his own knowledge he could not say of what metal the particles were.

I thought that I here perceived an opportunity, for if I could locate the filings in a place remote from the table at which the accused had been making his examination they might have been dropped by some previous or subsequent visitor. But when I questioned him the witness asserted that he was in the habit of taking up the breadths indiscriminately and could say nothing as to which one had afforded so rich a "find." He had shaken the matting under general orders, which he understood, were issued because sometimes visitors reported that they had dropped gold pencils, tooth-picks or small change on the floor, which the management was anxious

to discover and return. He had no animus against the accused, whom he had never seen until today. The man seemed stupid, but honest, and when he left the stand I felt that the prosecution had dealt us a blow all the more terrible because wholly unexpected.

An expert assayer testified to an analysis of a sample of the filings already submitted and declared unequivocally that they consisted of gold with so little alloy that the body from which they had been separated might be easily manipulated with a small file, such as formed one of the blades of the prisoner's knife.

A little more evidence, chiefly formal, was presented, and then the state rested its case.

Then I opened for the defense. After careful reflection, although not without much hesitation, I had determined that the best effect upon the jury might be obtained by making the accused his own first witness.

Jack told his story with absolute frankness. Not the tremor of a muscle betrayed the intense, nervous strain under which he was suffering. His eye was steady and unflinching, his voice clear and unshaken as he described each link in the chain of events from the day when he first obtained possession of the reliquary until the hour of his arrest. Nor was his narrative shaken under one of the most searching cross examinations to which I have ever listened. Manifestly the effect upon the jury was good, and I began to cherish renewed confidence.

Then the plowman told his story of his discovery of antique coins while turning the furrows on an English farm in Staffordshire, how he had sold a few, given away others and brought the rest to this country and finally how he had parted with the last remaining gold piece to the prisoner at a price agreed upon between them. The man was old and evidently nervous under the strain of his first experience in a court of justice, yet under my careful handling he proved a fairly good witness, and I indulged in a mild inward chuckle when I turned him over to the district attorney for cross examination.

That officer made it his business at the outset to quicken all the apprehensions which I had allayed and to arouse a personal antagonism toward himself. The simple old farm hand was very ignorant, and this fact was made patent to the jury in a way admirably calculated to cast discredit upon his testimony. Finally the cross examiner executed his coup. Taking from the table a gold coin of about the same size as the one on the ownership of which the entire case hinged, he handed it to the witness with the question, put in tones so rasping that they might have barred a saint:

"Did you ever see that piece before?"

"In course," was the prompt reply. "It's the one I sold to Mr. Scarborough there."

"Take a close look at it, my man," said the attorney. "You may be mistaken."

"No," said the witness, whose native obstinacy had been adroitly stimulated to the highest pitch by the shrewd tactics of the attorney for the prosecution. "It ain't likely I could be mistaken about a thing I know as well as I know that, and I bent. That's the very piece." And he grinned triumphantly, as though he had scored a strong point.

"Your honor," said the district attorney, turning to the court, "I assure you, upon my professional word, that the coin which this witness has just now so positively identified as the one which he sold to the prisoner is not a 'noble' of the reign of Edward III., but a rial of the time of James I. And this I am prepared to prove."

Here was, metaphorically speaking, another "blow between the eyes." At my request my opponent handed me both coins, and I compared them carefully. They were totally dissimilar. So far as proving Jack's ownership of a duplicate of the library "noble" and how the same came into his possession were concerned, our case thus far was a failure, unless the jury believed the (comparatively) unsupported testimony of the accused, whose motives for perjury might be made to appear self evident. In vain did I try upon the red-hot examination to lead the pigtended and now thoroughly frightened countryman to select the right coin from the two shown him. His feeble brain seemed temporarily unbalanced by vague visions of unknown pains and penalties which might be visited upon him if he failed to adhere to his original statement. And no tact, no adroitness—of which I at least was master—could induce him to correct his fatal blunder.

Miss Etheridge was agitated at the beginning of her first ordeal on the witness stand, but gained confidence as she proceeded with her story. The prisoner had called upon her (here she blushed and slightly faltered) on the evening of his return from what he had said had been his summer vacation. He had shown her a gold coin which he said he had purchased from a plowman in Massachusetts. Upon being shown the piece identified by Mr. Pope she unhesitatingly and unequivocally pronounced it the one shown her by the prisoner.

Knowing that she did not share either the knowledge or the enthusiasm of her lover in respect of numismatics, I pressed my questions no further. The

attorney for the state, however, proved pitiless. With all the suavity of a polished chairman he offered her the genuine "noble." Could she read the inscription? No. How had she been able to so thoroughly describe it on her direct examination? The prisoner had read it to her, and she had recollected. The other coin was shown her. Could she read that inscription? She could not. Could she, as a matter within her own personal knowledge, distinguish between the two coins? The large, brown eyes were suffused as she answered in the negative. But the district attorney was resolved to press his advantage before the jury.

"One more question, Miss Etheridge. Is there a promise of marriage between you and the prisoner?"

Slowly the magnificent orbs rose from the floor on which they had been fixed, and for a fraction of a moment the answer was delayed. But when



"Is there a promise of marriage between you and the prisoner?"

it came there was no quaver in the girl's voice; self assertion, rather than defiance, was in her tone as she looked her tormentor full in the face and answered:

"I have promised to marry him, and nothing but his death or mine shall make me break that vow."

I looked at her. Marble could not be whiter, nor an aspen leaf more tremulous. Yet when I rose to examine her upon what is technically known as the redirect I felt a mad hand plucking at my sleeve and a hoarse voice whispering in my ear: "For the love of pity, can't you see how she is suffering? Not another question to her, if I hang."

That settled it. The case was practically ended, and I knew only too well that there could be but one verdict. My friend was doomed.

After the jury had retired for deliberation I thought it my duty to prepare him for the worst, since I knew that the worst was inevitable. He was sitting with his elbow resting on the arm of his chair, his face covered with his hand. I touched his shoulder.

"Jack, old friend!"

In an instant he raised a pair of bloodshot eyes and a haggard face.

"Is she here?" he asked. "Will it kill her?"

Then I saw that even in this supreme moment his dread was not for himself, but for that noble woman who had dared, in the face of a jeering crowd, publicly to avow her undying love for a hunted man whom the world would, in a few hours, brand as a thief.

"My dear fellow" (I spoke as firmly and as soothingly as my own sorely tried nerves would permit), "Miss Etheridge has left the courtroom with her aunt. But you—you yourself—may soon need all your courage."

I put my arm around him. "The verdict may be against you, and then—" To my utter amazement, Jack Scarborough, my trusted friend from boyhood, sprang from his chair and positively shook his clenched fist in my face.

"Hang you!" said he. "What in the name of perdition do you suppose I care for juries and verdicts? Where is Agnes? She said she was to be my wife, and that fiend has killed her with his smooth, palavering questions. I must see her, I say. Do you hear me?"

A court bailiff was at his side in an instant. The man was rough, but his manner was not unkind as he forced my client back into his chair and said: "Now, see here. This won't do. None of this goes. You've got to be quiet, or—well, now wait for the verdict, like a good man. You see, even if it don't come your way there's no end of things—appeals, new trials and all that. But, by the saints, you've got to make no more breaks."

Scarborough recovered himself at once. He apologized to the bailiff and held out his hand to me without a word, but his eye wandered around the room in a way that no one but I could understand.

After a decent delay, the time being popularly supposed to have been spent in reflection and discussion, the jury filed back into the hall of justice. (I afterward learned that they had agreed upon the first ballot; but, the prisoner being a gentleman and they having been furnished with dinner, they had concluded that the proprieties of the case rendered it incumbent upon them to finish their post prandial cigars be-

fore resuming their solemn functions.) The sapient twelve found Jack guilty, and he was remanded for sentence.

(Continued in tomorrow's Astorian.)

## Pneumonia Follows a Cold.

But never follows the use of Foley's Honey and Tar. It stops the cough, heals and strengthens the lungs and prevents pneumonia. T. F. Laurin, Owl Drug Store.

At Newburg, N. Y., the Patekill will be dammed and used to generate 1500 electrical horsepower. The water rights have been secured.

## The New Pure Food and Drug Law.

We are pleased to announce that Foley's Honey and Tar for coughs, colds and lung troubles is not affected by the National Pure Food and Drug law as it contains no opiates or other harmful drugs, and we recommend it as a safe remedy for the children and adults. T. F. Laurin, Owl Drug Store.

Mr. and Mrs. A. V. Allen left yesterday morning for Hot Springs, Arkansas, for several months stay, and will spend the winter in the celebrated health resort.

It is a well known fact that persons living in the Pine forests do not suffer from kidney diseases. One dose of Pineules at night usually relieves backache. Thirty days' treatment, \$1.00. Your money refunded if not satisfied. Sold by Frank Hart's Drug Store.

President Roosevelt will have to revise the message to Congress said to have been written during his vacation at Oyster Bay. It can not be possible that he anticipated the financial flurry.

## Appendicitis

Is due in a large measure to abuse of the bowels, by employing drastic purgatives. To avoid all danger, use only Dr. King's New Life Pills, the safe, gentle cleansers and invigorators. Guaranteed for headache, biliousness, malaria and jaundice. at Charles Rogers & Son's Drug Store. 25 cents

The old theory that here must be some good in every man is undoubtedly true. It would be a very mean burglar that would break into a bank in times like the present unless he really had money in the institution.

## A Hard Debt to Pay.

"I owe a debt of gratitude that can never be paid off," writes G. S. Clark, of Westfield, Iowa, "for my rescue from death, by Dr. King's New Discovery. Both lungs were so seriously affected that death seemed imminent, when I commenced taking New Discovery. The ominous dry, hacking cough quit before the first bottle was used, and two more bottles made a complete cure." Nothing has ever equalled New Discovery for coughs, colds and all throat and lung complaints. Guaranteed by Charles Rogers & Son, druggists. 50 cents and \$1.00. Trial bottle free.

Chas. Dahlstrom has petitioned the Council to give him permission to transfer his liquor license and business from the corner of Commercial and Twentieth streets to 384 Commercial street, between Eighth and Ninth.

## A Significant Prayer.

"May the Lord help you make Bucklen's Arnica Salve known to all," writes J. G. Jenkins, of Chapel Hill, N. C. It quickly took the pain out of a felon for me and cured it in a wonderfully short time." Best on earth for sores, burns and wounds. 25 cents at Chas. Rogers & Son's Drug Store.

This is Worth Remembering. As no one is immune, every person should remember that Foley's Kidney Cure will cure any case of kidney or bladder trouble that is not beyond the reach of medicine. T. F. Laurin, Owl Drug Store.

It comes put up in a collapsible tube with a nozzle, easy to apply to the soreness and inflammation, for any form of Piles; it soothes and heals, relieves the pain, itching and burning. Man Zan Pile Remedy. Price 50 cents. Guaranteed. Sold by Frank Hart's Drug Store.

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30 days' treatment for \$1.00. Satisfaction guaranteed or money refunded.

FRANK HART'S DRUG STORE

# FOLEY'S KIDNEY CURE

Will cure any case of Kidney or Bladder Disease not beyond the reach of medicine. No medicine can do more.

F. T. Laurin, Owl Drug Store.

## NATURE PROVIDES FOR SICK WOMEN

a more potent remedy in the roots and herbs of the field than was ever produced from drugs. In the good old-fashioned days of our grandmothers few drugs were used in medicines and Lydia E. Pinkham, of Lynn, Mass., in her study of roots and herbs and their power over disease discovered and gave to the women of the world a remedy for their peculiar ills more potent and efficacious than any combination of drugs.



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## Lydia E. Pinkham's Vegetable Compound

is an honest, tried and true remedy of unquestionable therapeutic value. During its record of more than thirty years, its long list of actual cures of those serious ills peculiar to women, entitled Lydia E. Pinkham's Vegetable Compound to the respect and confidence of every fair minded person and every thinking woman.

When women are troubled with irregular or painful functions, weakness, displacements, ulceration or inflammation, backache, flatulency, general debility, indigestion or nervous prostration, they should remember there is one tried and true remedy, Lydia E. Pinkham's Vegetable Compound.

No other remedy in the country has such a record of cures of female ills, and thousands of women residing in every part of the United States bear willing testimony to the wonderful virtue of Lydia E. Pinkham's Vegetable compound and what it has done for them.

Mrs. Pinkham invites all sick women to write her for advice. She has guided thousands to health. For twenty-five years she has been advising sick women free of charge. She is the daughter-in-law of Lydia E. Pinkham and as her assistant for years before her decease advised under her immediate direction. Address, Lynn, Mass.

## Morning Astorian

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## Telegraphic News of the World

JOHN FOX, Pres. F. L. BISHOP, Sec. ASTORIA SAVINGS BANK, Treas. NELSON TROYER, Vice-Pres. and Supt.

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## November Tide Table.

NOVEMBER, 1907.					NOVEMBER, 1907.				
High Water.	A. M.	P. M.	Low Water.	A. M.	P. M.	High Water.	A. M.	P. M.	Low Water.
Friday .....	1 3:42	7:5	Friday .....	1 3:13	7:4	Friday .....	1 3:13	7:4	Friday .....
Saturday .....	2 10:23	8:10:37	Saturday .....	2 4:00	8:10:37	Saturday .....	2 4:00	8:10:37	Saturday .....
SUNDAY .....	3 11:47	8:9	SUNDAY .....	3 4:44	8:9	SUNDAY .....	3 4:44	8:9	SUNDAY .....
Monday .....	4 1:12	8:10:37	Monday .....	4 5:12	8:10:37	Monday .....	4 5:12	8:10:37	Monday .....
Tuesday .....	5 2:40	8:10:37	Tuesday .....	5 6:12	8:10:37	Tuesday .....	5 6:12	8:10:37	Tuesday .....
Wednesday .....	6 4:10	8:10:37	Wednesday .....	6 7:32	8:10:37	Wednesday .....	6 7:32	8:10:37	Wednesday .....
Thursday .....	7 5:40	8:10:37	Thursday .....	7 8:52	8:10:37	Thursday .....	7 8:52	8:10:37	Thursday .....
Friday .....	8 7:10	8:10:37	Friday .....	8 10:12	8:10:37	Friday .....	8 10:12	8:10:37	Friday .....
Saturday .....	9 8:40	8:10:37	Saturday .....	9 11:32	8:10:37	Saturday .....	9 11:32	8:10:37	Saturday .....
SUNDAY .....	10 10:10	8:10:37	SUNDAY .....	10 12:52	8:10:37	SUNDAY .....	10 12:52	8:10:37	SUNDAY .....
Monday .....	11 11:40	8:10:37	Monday .....	11 1:52	8:10:37	Monday .....	11 1:52	8:10:37	Monday .....
Tuesday .....	12 1:10	8:10:37	Tuesday .....	12 3:12	8:10:37	Tuesday .....	12 3:12	8:10:37	Tuesday .....
Wednesday .....	1 2:40	8:10:37	Wednesday .....	1 4:44	8:10:37	Wednesday .....	1 4:44	8:10:37	Wednesday .....
Thursday .....	2 4:10	8:10:37	Thursday .....	2 6:12	8:10:37	Thursday .....	2 6:12	8:10:37	Thursday .....
Friday .....	3 5:40	8:10:37	Friday .....	3 7:44	8:10:37	Friday .....	3 7:44	8:10:37	Friday .....
Saturday .....	4 7:10	8:10:37	Saturday .....	4 9:16	8:10:37	Saturday .....	4 9:16	8:10:37	Saturday .....
SUNDAY .....	5 8:40	8:10:37	SUNDAY .....	5 10:48	8:10:37	SUNDAY .....	5 10:48	8:10:37	SUNDAY .....
Monday .....	6 10:10	8:10:37	Monday .....	6 12:20	8:10:37	Monday .....	6 12:20	8:10:37	Monday .....
Tuesday .....	7 11:40	8:10:37	Tuesday .....	7 1:52	8:10:37	Tuesday .....	7 1:52	8:10:37	Tuesday .....
Wednesday .....	8 1:10	8:10:37	Wednesday .....	8 3:12	8:10:37	Wednesday .....	8 3:12	8:10:37	Wednesday .....
Thursday .....	9 2:40	8:10:37	Thursday .....	9 4:44	8:10:37	Thursday .....	9 4:44	8:10:37	Thursday .....
Friday .....	10 4:10	8:10:37	Friday .....	10 6:16	8:10:37	Friday .....	10 6:16	8:10:37	Friday .....
Saturday .....	11 5:40	8:10:37	Saturday .....	11 7:48	8:10:37	Saturday .....	11 7:48	8:10:37	Saturday .....
SUNDAY .....	12 7:10	8:10:37	SUNDAY .....	12 9:20	8:10:37	SUNDAY .....	12 9:20	8:10:37	SUNDAY .....

There is Only One

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That is

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